

BEST AVAILABLE COPY

REMARKS

The above Amendments and these Remarks are in reply to the Office Action mailed December 15, 2005. Claims 1-40 were pending in the Application prior to the outstanding Office Action. In the Office Action, the Examiner rejected claims 1-40. Reconsideration of the rejections is respectfully requested.

I. Double Patenting

1. Claims 1-16, 18-40 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 29-71 of copending Application No. 10/383,478. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 29-71 of co-pending Application 10/383,478 discloses/requires a narrower limitation (a microwave-induced plasma torch), which encompasses the broader limitation (a plasma torch), as required by claims 1-16, 18-40 in the instant claimed invention. Since the narrower claims 29-71 of copending Application 10/383,478 reads on the broader claims of the instant claimed invention, the present claimed inventions and claims 29-71 of copending Application 10/383,478 are not patentably distinct. The following table compares the claims between US 2004/0173316 A1 and the present claimed inventions.

<u>Present Invention Claims</u>	<u>US 2004/0173316</u>
1-3, 21, 36, 37, 40	29-32, 58, 59
4-9	33-37
10-16	38-44
18-20	54-56
22-26	46-49
27-31	59-61
32-35	63-65
38	69

BEST AVAILABLE COPY

Present Invention Claims

US 2004/0173316

39

71

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

A Terminal Disclaimer in compliance with 37 CFR 1.321(c) is filed herewith to overcome the provisional obviousness-type double patenting rejection over claims 1-16, 18-40, and Applicant respectfully requests that the rejection with respect to these claims be withdrawn.

2. Claim 17 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 29 of copending Application No. 10/383,478 in view of Fleming (US Patent No. 5,000,771). Claim 29 of copending Application 10/383,478 meets all the limitations of the instant claimed invention as per claim 17 except maintaining the temperature of the plasma between 5000-15,000 degree C.

This is a provisional obviousness-type double patenting rejection.

A Terminal Disclaimer in compliance with 37 CFR 1.321(c) is filed herewith to overcome the provisional obviousness-type double patenting rejection over claim 17, and Applicant respectfully requests that the rejection with respect to these claims be withdrawn.

II. Conclusion

In light of the above, it is respectfully submitted that all of the claims now pending in the subject patent application should be allowable, and a Notice of Allowance is requested. The Examiner is respectfully requested to telephone the undersigned if he can assist in any way in expediting issuance of a patent.

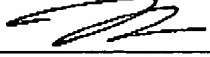
The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 06-1325 for any matter in connection with this

BEST AVAILABLE COPY

response, including any fee for extension of time, which may be required.

Respectfully submitted,

Date: 5/16/06

By: 
David T. Xue
Reg. No. 54,554

FLIESLER MEYER LLP
Four Embarcadero Center, Fourth Floor
San Francisco, California 94111-4156
Telephone: (415) 362-3800
Customer No. 23910